

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

George Grant, Jr.,

Plaintiff,

v.

Captain Bryant, Ms. Swaney, Joey
Preston, David Crenshaw, and Anderson
County,

Defendants.

C/A No. 0:07-278-GRA-BM

ORDER

(Written Opinion)

This matter is before the Court for a review of the magistrate's Report and Recommendation filed on July 20, 2007, and made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(d), D.S.C. Plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983.

Defendants filed a Motion to Dismiss on May 17, 2007. Plaintiff responded on May 29, 2007. Defendants replied on June 27, 2007. The magistrate recommends that Defendants' Motion to Dismiss be granted.

Plaintiff brings this action *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Plaintiff filed objections to the Report and Recommendation on July 25, 2007.


In Plaintiff's "second defense" paragraph, he objects that Defendants have admitted the allegations in his Complaint as true. Defendant apparently references the procedural posture of this case. Defendants filed a Motion to Dismiss under Rule 12. Thus, the Court must assume that the allegations contained in the Complaint are true and determine whether, if true, these allegations constitute a legally cognizable claim for relief. This does not mean that Defendants are deemed to have admitted the allegations in the Complaint by virtue of filing a Motion to Dismiss.

Plaintiff's remaining objections are not directed to specific portions of the Report and Recommendation. Therefore, the Court need not consider them.

After a review of the magistrate's Report and Recommendation and the objections thereto, this Court finds the report is based upon the proper law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that Defendants' Motion to Dismiss is GRANTED and this case is DISMISSED.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "G. Ross Anderson, Jr.", is written over a horizontal line.

G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

August 9, 2007

Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this Order within thirty (30) days from the date the judgment of this Order is entered, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified within Rule 4, will waive the right to appeal.